

**DEPARTMENT OF FOOD AND AGRICULTURE**

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July 13, 1998

**TO ALL INTERESTED PARTIES:**

A public hearing was held on May 8, 1998 in Sacramento to consider amendments to the Class 1 pricing formula. The proposed amendments would have established a floor for the Class 1 farm price under the Stabilization and Marketing Plans for Market Milk (Plans).

The proposal to establish a Class 1 floor price was submitted based upon a similar floor price being established under federal milk marketing orders. Subsequent to the May 8 hearing, USDA announced that it has decided not to implement such a floor. As a result of USDA's announcement and after considering all testimony and evidence, the Department has determined that no amendments to the California Plans are warranted at this time.

If you have any questions regarding the Department's decision, please contact Elton Brooks at (916) 654-1456. Copies of the *Statement of Determination and Findings of the Secretary* can be obtained by contacting the Dairy Marketing Branch at the phone number or e-mail address above. Both documents will also be available on the Department's Internet site at [www.cdfa.ca.gov/dairy](http://www.cdfa.ca.gov/dairy) under "Dairy Hearing Results".

Sincerely,

***Original signed by:***

David K. Ikari, Chief  
Dairy Marketing Branch

**STATEMENT OF DETERMINATION AND FINDINGS OF THE  
SECRETARY OF FOOD AND AGRICULTURE REGARDING A  
PROPOSED AMENDMENT TO THE STABILIZATION AND  
MARKETING PLANS FOR MARKET MILK – BASED UPON A  
PUBLIC HEARING HELD ON MAY 8, 1998**

**SUMMARY:** The determination to *continue* the current Stabilization and Marketing Plans for Northern and Southern California (Plans) as made effective on July 1, 1998, is made effective based on evidence received at a public hearing held on May 8, 1998, in Sacramento, California, and on briefs filed within the allowed brief filing period ending June 19, 1998.

The Statement of Determination and Findings of the Secretary will be discussed in the following Sections:

- I. Introduction:** the broad outline of the pertinent statutes and facts giving rise to the hearing. Page 2.
- II. Analysis of Proposed Change:** a discussion of the change to the Plans as proposed by the petitioner. Page 3.
- III. Conclusion:** a summary of the factors considered in reaching a decision on the proposal. Page 3.
- IV. Findings of the Secretary:** Page 4.

## **SECTION 1 INTRODUCTION**

California Food and Agricultural Code Section 61801, et. sec., provides the authority, procedures and standards for establishing minimum prices by the Department for the various classes of milk that processors (handlers) must pay for milk purchased from dairy farmers (producers). These statutes provide for the formulation and adoption of Stabilization and Marketing Plans for Market Milk (Plans).

On April 9, 1998, the Secretary received a petition jointly submitted by Western United Dairymen (Western) and the Alliance of Western Milk Producers (Alliance) to amend the Plans. The petition proposed that the Department establish a floor farm price level for milk used to produce Class 1 milk and dairy products in response to an anticipated price floor to be established for federal milk marketing orders. A floor price for federal orders was anticipated due to a public hearing held by USDA in late February. The February hearing was held to receive testimony and evidence regarding a floor price proposal submitted to Secretary Glickman by Dairy Farmers of America.

On April 15, 1998, a second petition was received from the Alliance regarding an alternative price reference in the Class 4b and Commodity Reference Price (CRP) pricing formulas to replace the Chicago Mercantile Exchange (CME) Grade B butter price. The CME had announced that it would cease to trade Grade B butter effective July 1, 1998.

On April 21, 1998, the Department granted petitioners' request for a public hearing on Class 1 pricing and a Notice of Hearing was issued. The Department also granted the request for a hearing on an alternative reference price to the CME Grade B butter price.

Two hearings were held on May 8, 1998, to consider the proposed amendments contained in the petitions. The first hearing considered the alternative reference price for the Class 4b and CRP pricing formulas. The *Statement of Determination and Findings of the Secretary* resulting from this Hearing was issued on June 15, 1998, and is incorporated herein by reference.

The second hearing regarded the proposal for a Class 1 floor price. Because the proposal submitted in the petition was dependent upon a pending decision by USDA, the hearing record was held open until the USDA decision was announced. Eight witnesses (including the witness representing the Department) testified at the hearing. In addition to the testimony and evidence introduced at the hearing, two additional briefs were filed prior to the closing of the hearing record.

On June 10, 1998, USDA announced its decision to deny the proposed floor price for federal orders. A copy of the USDA decision is attached as Exhibit 1. Subsequent to the announcement from USDA, the Department (CDFA) announced that it would close its hearing record on June 19, 1998.

## **SECTION II ANALYSIS OF PROPOSED CHANGES**

In their proposal, the petitioners stated that the intent was to “ensure timely correlation with USDA decisions on the Class 1 floor pricing proposal currently under consideration.” The petitioners’ proposal would have established a Class 1 floor price of \$15.48 per hundredweight for the Northern California Marketing Area and \$15.75 for the Southern California Marketing Area. This, petitioners claimed, would be comparable to an anticipated basic formula price floor under federal orders of \$13.50 (see Exhibit 2).

Testimony at the hearing also supported implementation of a California Class 1 floor price to ensure alignment with Class I prices in neighboring states should USDA establish a floor price for federal orders. Virtually no testimony or evidence was entered into the hearing record justifying a California Class 1 floor price independent of a corresponding federal floor. Therefore, analysis of this proposal was rendered moot with the announced decision by USDA that there will be no floor price in federal orders.

## **SECTION III CONCLUSION**

Section 62062 of the Food and Agricultural Code provides that in adopting formulas for the designation of farm milk prices, formulas “shall be reasonably calculated to result in prices that are in a reasonable and sound economic relationship with the national value of manufactured milk products.” The Department must also take into consideration any relevant economic factors, including, but not limited to:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to the combined income from those class prices, in relation to the cost of producing and marketing market milk for all purposes,
- That prices established shall insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes at fair and reasonable prices to consumers, and
- That prices, including the prices for components of milk, for the various classes of market milk bear a reasonable and sound economic relationship to each other.

Section 62062.1 provides that, for any calendar year that California’s statewide weighted average Class 1 price is not in a reasonable relationship with those in contiguous states, the Department shall hold a hearing to consider adjustments to the Class 1 prices.

Given that no testimony or evidence was entered into the hearing record indicating that the current pricing formula for Class 1 milk fails to take into consideration the above factors, and given that concerns raised on the hearing record about the potential misalignment of prices under Section 62062.1 are no longer relevant given the announced decision by USDA not to implement a floor price under federal orders, the Department has determined that no amendments to the Plans are warranted and the petition for a Class 1 price floor is denied.

## **SECTION IV FINDINGS**

The Secretary of Food and Agriculture makes the following findings based upon the testimony and evidence presented at the consolidated hearing held in Sacramento on May 8, 1998.

All testimony and items of evidence submitted by all parties to these proceedings, whether specifically mentioned herein, have been considered in rendering these findings. All provisions set forth in Chapter 2, Part 3, Division 21 of the Food and Agricultural Code, whether specifically mentioned herein, have been considered in rendering these findings.

It is hereby found and concluded that:

- (1) The Stabilization and Marketing Plans for Market Milk now in effect continue to be in conformity with the standards prescribed in and will tend to effectuate the purposes of said Chapter 2; and
- (2) No amendments to said Plans are warranted at this time.

***Original signed by:***

A. J. Yates, Undersecretary  
California Department of Food and Agriculture

Signed and entered in the  
Office of the Secretary of  
Food and Agriculture at  
Sacramento, California on  
July 10, 1998